

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

STEVEN BUFFINGTON, on behalf of  
himself and all others similarly situated,

Plaintiff,

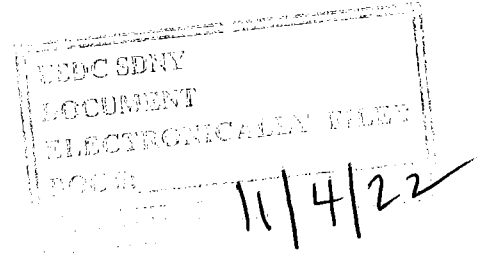
v.

PROGRESSIVE ADVANCE INSURANCE  
CO.,

Defendant.

Civil Action No.: 7:20-CV-07408 (VB)

~~PROPOSED~~ ORDER DIRECTING  
NOTICE TO THE CERTIFIED CLASS



AND NOW, this 4th day of November, 2022, upon consideration of the parties' revised Joint Proposed Notice Plan for Dissemination of Notice to the Class, (Doc. #109) it is hereby **ORDERED** that:

1. The parties' revised Joint Proposed Notice Plan for Dissemination of Notice to the Class, including the notice forms attached as Exhibits A, B, and C thereto and the opt-out-form attached as Exhibit D, is **APPROVED**. The notice plan set forth therein constitutes the best notice practicable under the circumstances and the form of notice proposed meets the requirements of Fed. R. Civ. P. 23(c)(2)(B).

2. Simpluris, Inc. ("Simpluris") is appointed as the class action notice administrator and is authorized and directed to administer the notice procedure as more fully set forth below.

3. In accordance with this Court's Order granting class certification, the Class here includes any persons (a) who insured a vehicle for physical damage coverage under a New York automobile insurance policy issued by Progressive Advanced Insurance Company, (b) who made a claim under the policy for physical damage to the vehicle, (c) whose claim was adjusted as a total loss between September 10, 2014 and August 23, 2022, and (d) who were not paid the

applicable New York sales tax for their total-loss claim. *See* (ECF No. 94 at 12). Those persons “not paid the applicable New York sales tax for their total-loss claim” includes those persons who were paid no New York sales tax at all as well as those who were paid some sales tax but less than the applicable New York sales tax. *See* (ECF No. 108, ¶ 1).

4. On or before December 14, 2022, Defendant shall provide Class Counsel with claims data, including the names, email addresses, if any, and last known mailing addresses, sufficient to identify all potential class members from Defendant’s business records.

5. Upon receipt of this data, Class Counsel will analyze the information to identify and/or confirm class members (the “Class List”). Upon confirmation of the Class List by Class Counsel, Defendant will provide the contact information for those potential class members to Simpluris.

6. On or before January 13, 2023, Simpluris shall cause a copy of the Short Form Notice (Exhibit A to the parties’ revised Joint Proposed Notice Plan for Dissemination of Notice to the Class) to be sent by email to all potential class members for whom email addresses are identified in Defendant’s records, and a copy of the Post Card Notice (Exhibit B to the parties’ revised Joint Proposed Notice Plan for Dissemination of Notice to the Class) to be sent by first-class mail to potential class members for whom Defendant does not possess a valid email address.

7. Simpluris will send the Short Form Notice via email utilizing best practices to ensure the email is not caught in spam filters. If an email is not unknown, “bounced back” or undeliverable, Simpluris will send the Post Card Notice via first-class mail to the physical address for that class member provided by the Defendant on or before January 27, 2023.

8. For those class members to whom the Post Card Notice will be sent, Simpluris will process the addresses through the U.S. Postal Service’s National Change of Address (“NCOA”)

database to obtain the most current mailing addresses for class members. Notices returned with a forwarding address from the U.S. Postal Service will be re-mailed to the new address.


9. Prior to sending notice to class members, Simpluris will establish a toll-free helpline to assist class members seeking information about the case such that Class members can receive information directly from the helpline and can leave a message requesting a live-call-back.

10. Also prior to notice mailing, Simpluris will establish an informational website to be hosted at a custom website address that refers to the above-titled action. The website will (1) provide class members with the Long Form Notice (Exhibit C to the to the parties' revised Joint Proposed Notice Plan for Dissemination of Notice to the Class); (2) will have a link for an Opt-Out Form to be completed and mailed by the class member (Exhibit D to the parties' revised Joint Proposed Notice Plan for Dissemination of Notice to the Class); and (3) will provide a link to the complaint and Order granting class certification.

11. Class members who wish to opt-out of the Class may do by sending to Simpluris (1) a completed Opt-Out Form or (2) a clear statement of their intent to exclude themselves, in writing, which includes the name of the lawsuit, *Buffington v. Progressive Advanced Insurance Co.*, Case No. 20-cv-07408, their name, the date, their current address, and signature. Under either method, the request to opt-out must be sent to Simpluris and postmarked no later than March 13, 2023.

12. By March 29, 2023, Plaintiff shall file a report detailing the status of the completion of the dissemination of the class notice directed by this Order and identifying those persons for whom a timely opt-out was received.

**IT IS SO ORDERED.**

  
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The Honorable Vincent L. Briccetti  
United States District Judge

11/4/2022